

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 BANK OF AMERICA,
11 Plaintiff(s),

12 v.

13 SUNSET RIDGE LIMITED
14 HOMEOWNERS ASSOCIATION, et al.,
15 Defendant(s).

Case No.: 2:16-cv-00797-GMN-NJK

Order

16 The Court held a settlement conference in this case, Docket No. 73, the requirements for
17 which were spelled out in detail in the order at Docket No. 63. Among other requirements, the
18 Court ordered the attendance of “counsel of record who will be participating in the trial” and, “[i]f
19 the party is subject to coverage by an insurance carrier, then a representative of the insurance
20 carrier with authority to settle this matter up to the full amount of the claim or last demand.”
21 Docket No. 63 at 1-2 (emphasis in original). The HOA violated both of these provisions of the
22 Court’s order.

23 First, the Court ordered the attendance of “counsel of record who will be participating in
24 the trial.” The HOA’s attorneys of record are Joseph Garin, Kaleb Anderson, and Megan Hummel.
25 None of these attorneys appeared on behalf of the HOA. Instead, attorney Eric Tran appeared on
26 behalf of the HOA. Mr. Tran is not attorney of record in this case. Mr. Tran represented that he
27 was “covering” for another attorney, but never filed a request to enable him to do so. *See* Docket
28 No. 63 at 2 (ordering that any request to deviate from the attendance requirements must be

1 presented to the Court through a written motion). Parties must comply with clear orders unless
2 they request relief otherwise and that request is granted by the Court.

3 Second, it became apparent as the settlement conference progressed that the real party in
4 interest is not the HOA at all, but rather is its insurance carrier. The insurance carrier was not
5 present at the settlement conference, nor was its representative actively participating
6 telephonically. Instead, the Court had allowed the representative to appear telephonically on an
7 as-needed basis because the HOA and its counsel (Ms. Hummel) represented that “undersigned
8 counsel and a representative of the HOA will appear at the settlement conference with full
9 settlement authority.” Docket No. 65 at 2. This representation was plainly false. Mr. Tran and
10 the HOA representative were authorized by the insurance company to settle the case for no more
11 than \$10,000. Given this case involves a dispute as to real property valued in the hundreds of
12 thousands of dollars, appearing at the settlement conference with authority of \$10,000 is quite
13 obviously not “full settlement authority.”¹ Had the Court been accurately informed of the
14 circumstances, it would have denied the HOA’s motion and required active participation by the
15 insurance carrier.

16 Although the Court would be within its discretion to impose sanctions, it declines to do so
17 in this instance. The Court reminds counsel that they must comply with the Court’s orders. *See*
18 Fed. R. Civ. P. 16(f). The Court also reminds counsel that representations to the Court must have
19 a reasonable factual basis. *See* Fed. R. Civ. P. 11. The Court lastly reminds counsel they must
20 acquire the basic competence and skills to practice law in this venue. *See Dela Rosa v. Scottsdale*
21

22 ¹ Mr. Tran appeared to argue that an insurance company may simply relay to its attorney
23 its valuation of a case and then not appear at a settlement conference. Such a premise is faulty:

24 The Court fails to see any reasonable interpretation of the term ‘up
25 to the full amount of the claim’ to mean a party’s own valuation of
26 the claim. By [that] logic, [an attorney] could have appeared at the
27 settlement conference with a representative with *no settlement*
28 *authority* because Defendant believes strongly that it will prevail on
its claims. That obviously defeats the point of having a settlement
conference.

Wilson v. KRD Trucking West, 2013 WL 836995, at *3 (D. Nev. Mar. 6, 2013) (emphasis in
original).

1 *Mem. Health Sys., Inc.*, 136 F.3d 1241, 1244 (9th Cir. 1998). The Court **CAUTIONS** HOA's
2 counsel that the failure to comply with these obligations in the future may result in the imposition
3 of sanctions.

4 IT IS SO ORDERED.

5 Dated: August 14, 2018

6
7 
Nancy J. Koppe
United States Magistrate Judge
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28